



Seattle Police Department

Legal Bulletin



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Service Animals and Dog Guides

Introduction:

This Legal Bulletin is intended to inform officers of the following questions that may arise on duty or off duty about dog guides and service animals. The ability for a property owner, manager or their agent, including law enforcement, to remove a dog guide or service animal is very limited and narrowly defined. While the owner of the animal is responsible for any substantial misbehavior and the safety of the animal, the courts will closely scrutinize the legal basis for removal should the user/owner of the dog/animal challenge the action. The laws outlining the rights and responsibilities of dog guides and service animals are detailed below.

How do you know if an animal is a dog guide or service animal, and not a pet?

- **Look at the Revised Code of Washington (RCW) definition of “dog guide”:**

RCW 70.84.020 defines a “dog guide” as: “a dog that is **trained** for the purpose of guiding blind persons or a dog trained for the purpose of assisting hearing impaired persons.”

- **Look at the RCW definition of “service animal”:**

RCW 70.84.021 defines “service animal” as: “an animal that is **trained** for the purposes of assisting or accommodating a disabled person’s sensory, mental, or physical disability.”

- **Look at the Americans with Disability Act (ADA) definition of “service animal”:**

The ADA defines a service animal as any guide dog, signal dog, or other animal individually **trained** to provide assistance to an individual with a disability. Under the law a “service animal” is not considered a pet. A “service animal” is considered part of a team responding to the needs and commands of its owner.

- All of the above definitions require that the animal be **trained** for the purpose of assisting the person with a **disability**.

Is a “companion animal” the same as a “service animal”?

- **No.** A companion animal is not legally defined by the ADA.

A companion animal (also known as a pet) is **not** trained, and therefore not afforded the legal protections that a service animal is.

How can you determine if a dog guide and/or service animal has completed the legally required training?

- Look for **helpful** indicators, but remember these indicators are **not required by law**:

- Some, but not all, service animals wear special collars or harnesses.
- Some, but not all, service animals are certified and have identification papers.
- You may **not** insist on proof of certification before permitting the service animal to accompany the disabled person in a public place.
- The ADA **allows** you to ask the person with the animal:
- “Is this animal a trained service animal required because of a disability?”
- If the person responds, “Yes” then you must treat the animal as a service animal and/or dog guide. You may **not** ask a) what the person’s disability is, and/or b) what the animal’s training included.

Must a business allow a service animal in training, or a person who does not have a disability who says the animal is trained as a service animal remain in a public accommodation?

- **No.** The ADA and Washington State Law does not address service animals that are not yet trained. However, a business **may choose** to allow these animals entry.

What type of public place is a service animal and/or dog guide allowed to be present in?

- Under the ADA businesses and organizations that serve the public **must** allow people with disabilities to bring their service animals into **all** areas of the facility where customers are normally allowed to go.
- This federal law applies to **all** businesses open to the public, including: restaurants, hotels, taxis, shuttles, grocery stores, department stores, hospitals, medical offices, theaters, health clubs, parks and zoos.

What do you do if you are asked by a business to remove a service animal and/or dog guide due to a posted “no pets” policy?

- Ask the person with the animal: “Is this animal a trained service animal required because of a disability.” If the person says **yes**, then they can **stay** so long as the animal’s behavior does not pose a direct threat to the health and safety of others. See WAC Below.
- Inform the business owner/manager/or agent that federal law **protects** the person with the service animal and/or dog guide. The person can **legally** be accompanied by their service animal/dog guide in public places, and that
- A posted “no pets” policy may continue to be in effect, but the public business **must** make an exception to the general rule for service animals.

When can a public accommodation ask a service animal/dog guide to be removed from a public place?

- **ADA states:** You may exclude any animal, including a service animal, from a public place when the animal’s behavior poses a direct threat to the health and safety of others.
- EXAMPLE #1: any service animal that displays vicious behavior towards other guests, customers, or appears to not respond to the owner’s commands may be excluded from a public place. The owner/manager and/or agent must witness this behavior, and not assume it will happen. Public accommodation should give the person with the service animal the

option of continuing to enjoy its goods and services without having the service animal on the premises.

- **EXAMPLE #2:** a public accommodation is not required to accommodate a service animal when doing so would result in a fundamental alteration to the nature of the business, i.e. when a dog barks during a movie at a movie theater the animal may be excluded because it is disruptive to the business.
- **WAC 162-26-135(1) states:** It is an unfair practice for a place of public accommodation to ask that a trained dog guide or service animal be removed, unless that place of public accommodation can show that the presence, behavior or actions of that dog guide or service animal constitutes an unreasonable risk of injury or harm to property or other persons. WAC authority from the RCW 49.60.120(3).

How do you determine when a risk of injury or harm exists under WAC 162-26-135(1)?

- **WAC 162-26-135(2)(a):** Risk to property or other persons must be immediate or reasonably foreseeable under the circumstances, and not remote or speculative.

What are some **unlawful reasons** for removing a service animal and/or dog guide from a public place?

- **WAC 162-26-135(2)(b):** Annoyance, on the part of staff or other customers of the public accommodation, at the presence of the dog guide or service animal is not reasonable.
- **WAC 162-26-135(2)(c):** Risk of injury or harm to the dog guide or service animal is not a reason for a place of public accommodation to exclude the animal. The decision to bring the animal into a place of public accommodation rests with the person with the disability using the dog guide or service animal.

Is it unlawful for a person to falsely claim a disability to thereby enjoy protections of a dog guide or service animal?

- **Yes. RCW 70.84.060:** Unauthorized use of white cane, dog guide, or service animal. It shall be unlawful for any pedestrian who is not totally or partially blind to use a white cane or any pedestrian who is not totally or partially blind or is not hearing impaired to use a dog guide or any pedestrian who is not otherwise physically disabled to use a service animal in any of the places, accommodations, or conveyances listed in RCW 70.84.010 for the purpose of securing the rights and privileges accorded by the chapter to totally or partially blind, hearing impaired, or otherwise physically disabled people.

Please note it is **difficult**, upon meeting someone, to prove that a person does **not** have a disability that would entitle him or her to use a service animal. This is especially true since the person does not have to tell you what their disability is, only that the service animal is trained to help them with their disability. Service animals are not only used to assist with physical disabilities, but also mental disabilities, too.

Questions or comments regarding this bulletin may be directed to Shawna Skjonsberg-Fotopoulos, Risk Manager Human Resources Section. Phone 615-1233.